

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT PAUL WILSON,
Petitioner,
vs.
RON DAVIS, Warden of the California
State Prison at San Quentin,
Respondent } Case No.: CV 07-0519 MWF
} ORDER TO SHOW CAUSE RE:
RESPONDENT'S FAILURE TO FILE
REPLY BRIEF

I. PROCEDURAL BACKGROUND

This Order to Show Cause is in regard to Respondent's reply brief, which was due on June 1, 2016.

On May 12, 2014, the Court directed Respondent to file a motion to dismiss which identified on a claim by claim basis those claims and sub-claims in the operative second amended petition for writ of habeas corpus which Respondent contends are subject to summary dismissal without discovery or an evidentiary hearing. (Docket No. 69.)

On December 15, 2014, Respondent filed his Motion to Dismiss Second Amended Petition for Writ of Habeas Corpus together with a memorandum of ORDER TO SHOW CAUSE RE: RESPONDENT'S FAILURE TO FILE REPLY BRIEF

1 points and authorities. (Docket No. 76.) Thereafter, the Court issued an order
 2 setting a briefing schedule for the motion stating that, “Petitioner shall serve and
 3 file an opposition brief no later than August 10, 2015. If Respondent wishes to
 4 serve and file a reply memorandum, Respondent shall do so no later than
 5 September 9, 2015.”) (Docket No. 77.)

6 Petitioner sought and obtained one extension of time to file his opposition
 7 brief and then, on November 10, 2015, filed an Unopposed Ex Parte Application
 8 for Modification of Briefing Schedule. (Docket No. 83.) The Court granted that
 9 order on November 16, 2015, and ordered, *inter alia*, that Respondent was to lodge
 10 the state court record by November 30, 2015, and Petitioner was to file his
 11 opposition to the motion to dismiss on or before February 15, 2016. (Docket No.
 12 84.)

13 Respondent sought and obtained an extension of time within which to lodge
 14 the state court record and lodged those documents on January 15, 2016. (Docket
 15 Nos. 85, 86, and 88.) In the order granting the request for additional time to lodge
 16 the state court record, the Court also extended the time for the filing of Petitioner’s
 17 opposition to the Motion to Dismiss until April 1, 2016. (Docket No. 86.)
 18 Petitioner filed his Opposition to Motion to Dismiss Second Amended Petition for
 19 Writ of Habeas Corpus, together with a memorandum of points and authorities, on
 20 April 1, 2016. (Docket No. 90.)

21 Respondent then sought and obtained an extension of time within which to
 22 file his reply brief up to and including June 1, 2016. (Docket Nos. 91 and 92.) As
 23 of this date, Respondent has not filed his reply brief – more than three and one-half
 24 months after it was due.

25 **II. ORDER**

26 Based on Respondent’s failure to file his reply brief in a timely manner, the
 27 Court orders Respondent to show cause, if any he has, why the Court should not
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1 consider the briefing on the Motion to Dismiss closed. Respondent shall file a
2 written response to this Order to Show Cause on or before October 4, 2016.

3 **IT IS SO ORDERED.**

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5 Date: September 21, 2016.



6 MICHAEAL W. FITZGERALD
7 United States District Judge
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